

Provisional Election and Request for Reconsideration

Applicant provisionally elects that claims 1 - 13 be examined, recited by the Examiner as Invention I.

Applicant has withdrawn the claims recited by the Examiner as Invention II and Invention IV.

Applicant respectfully requests that the Examiner reconsider the restriction requirement regarding Invention I (e.g. claims 1-13) and Invention III (e.g. claims 16-21).

The fact that the two sets of claims may fall into different sub-classes of invention is not fully dispositive. A restriction requirement cannot be demanded if there is no "substantial burden" on the Examiner in reviewing two sets of claims. MPEP §803 I. Indeed, in this case, there is none: both sets claims are directed toward electrostatic fluid dispersion devices.

In addition, Claim 1 and Claim 16 show considerable overlap in scope. Both claims recite exactly the following limitations: "An electrostatic spraying device comprising a capillary spray electrode having a spraying end, and a reference electrode, the electrodes being connected, in use, across a generator in order to establish an electric field between the electrodes and cause fluid in the capillary to be sprayed from the spray electrode...."

Claim 1 further recites a spray electrode with a focus and Claim 16 further recites a mechanism for applying a pulsed pressure wave to the fluid as it is sprayed from the electrode. As a result, there may be an electrode with a focus that is part of the apparatus with the mechanism. This shows that there is considerable overlap in scope between the two claims.

For the same reason, the inventions as claimed are capable of use together. Given the overlap and that the two claims may be used together, the logical condition specified by MPEP §806.05(j) has not been met. Therefore, it is improper for the restriction requirement to apply to Inventions I and III.

Applicant respectfully requests that this restriction be withdrawn.